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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,848	09/13/2006	Franz Lindlbauer	WAS0808PUSA	1263
22045 7590 11/26/2008 BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				
EXAMINER				
PERREAULT, ANDREW D				
ART UNIT		PAPER NUMBER		
3728				
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11/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,848

Applicant(s)

LINDLBAUER, FRANZ

Examiner

ANDREW PERREAULT

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As originally filed the specification does not contain the self sealing limitation added to claim 10; the limitation is considered impermissible **new matter**. Claims 11-20 depend upon claim 10, and are therefore rejected.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

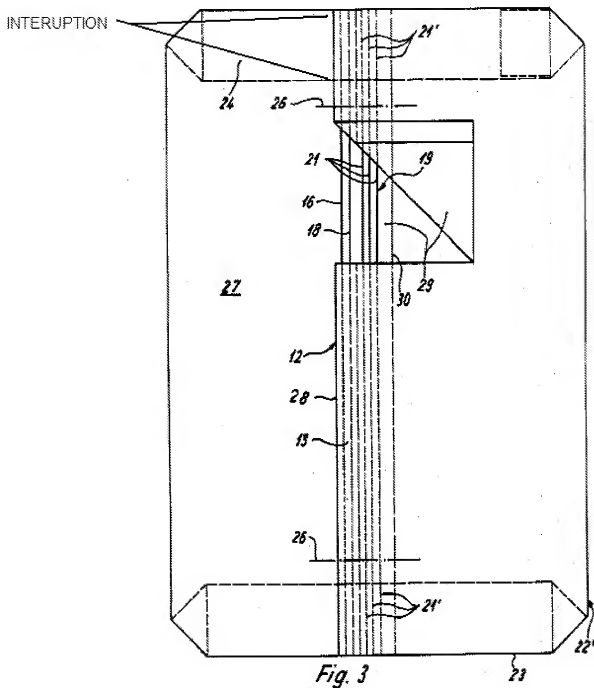
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Combrink (5493844) in view of Barnes et al. (4672684) and Scoville, Jr. (4596696).
5. As to claim 10 and 18, as best understood, Combrink discloses a multilayer, sack packaging medium 22' (fig. 3), comprising a broad front side and a broad rear side

joined (as seen in fig. 3) by first and second narrower side areas (sack 22' inherently has a front, rear, and two sides; fig. 3), and closed at an upper end 24 and a lower end 23 (fig. 3), an opening 25 (fig. 2, 3) for filling, being free at the upper end 24, the packaging medium 22' having an inner wall 14 (col. 7, lines 1-19; fig. 2, 3) surrounded by an outer wall 15 (col. 7, lines 1-19; fig. 2, 3), comprising a plastic film ("thermoplastic sheet," col. 7, lines 9-13); wherein on the front side, the outer wall 15 overlaps a subregion 13 of up to 50% of the total area of the front side (fig. 3) to form an overlap region having an inner surface and an outer surface of the outer wall; at edges of the overlap region 13, the edges of the inner and outer surfaces of the outer wall 15 lying one above the other are joined to each other by means of seams, forming a joints (made up of 12; col. 5, line 37-40; fig. 2, 3); at one edge of the overlap region, the joint 12 is interrupted over a continuous region which covers 10 to 50% of the total length of the joint 12 (see fig. 3 below) to form an interruptions through which gas exiting the sack through perforations can pass; 10 to 50% of the area of the overlap region 13 is provided with perforations 20 (col. 7, lines 1-9; col. 5, lines 57-65; fig. 2, 3); the joint is interrupted free of perforations (fig 3); but does not disclose that a distance of 0.5 to 10 cm from the edges of the overlap region 13 is maintained, the inner and outer wall material, and that the inner surface of the outer wall is perforated; wherein the sack is self sealing such that upon filling of the sack, the two layers lying one above the other in the overlap region bear against each other forming a self-sealing seal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distance such that the distance of 0.5 to 10 cm from the edges

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of the overlap region 13 is maintained, since it has been held that discovering an



optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Moreover, Scoville, Jr. teaches a

similar packaging medium ("test pack", col. 8 lines 34-56) comprising a front side and a rear side joined by first and second side areas, and closed at an upper end and a lower end (fig. 1-3) having an inner wall made of air-permeable material surrounded by an outer wall of air-impermeable material ("an outer container in the form of a box having a definite stable shape and being formed of a relatively steam and air permeable material coated with a form-stabilizing layer of a relatively steam and air impermeable material," col. 8, lines 35-39); the inner surface of the outer wall 15 is perforated 17-21 (col. 4, lines 32-25; fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in the Combrink reference, to include the inner and outer wall material, and that the inner surface of the outer wall is perforated, as suggested and taught by Scoville, Jr., for the purpose of controlling air egress/ingress (col. 7, lines 42-60), thereby enhancing stability of the shape of the package. Furthermore, Barnes discloses a similar sack (10; fig 1-6) with two layers (22, 13) in an overlapping region (fig 4) with is capable of having a joint free of perforations (col. 8, line 43-44) wherein the sack is self sealing such that upon filling of the sack, the two layers lying one above the other in the overlap region bear against each other forming a self-sealing seal (col. 7, line 46 – col. 8, line 44). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in the combined references, such that the sack is self sealing such that upon filling of the sack, the two layers lying one above the other in the overlap region bear against each other forming a self-sealing seal, as suggested and taught by Barnes, for the purpose of providing a device where "entrained air can exit through [a]

mesh of [an] inner lining and vent to atmosphere through [a] perforated wall without losing unacceptable amounts of [a] fine powder product, instead of via [a] filling sleeve as the bag is being filled, and most important after [a] valve has self-sealed with entrained air still in the bag" (col. 3, line 51-58).

6. As to claim 11, Combrink discloses that the outer wall 15 overlaps only on the rear side (fig. 3).
7. As to claim 12-13, Combrink discloses the outer wall 15 overlaps (with overlap region 13) over its entire length (fig. 3).
8. As to claims 14-16, Combrink discloses that the interruption is in the upper half of the packaging medium 22' (see fig. 3 above).
9. As to claim 17, Combrink discloses that the inner wall 14 comprises nonwoven materials made of synthetic fibres and natural fibres ("non-woven fabric," col. 6, lines 1-2).
10. As to claims 19-20, Combrink discloses the transport and storage of particulate materials in a storage medium 22' (col. 5, line 30 – col. 7, line 30); wherein said particulate material includes flour ("powdery material," col. 2, lines 24-28).

Response to Arguments

11. Applicant's arguments with respect to claim 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW PERREAULT whose telephone number is (571)270-5427. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P./
Examiner, Art Unit 3728

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728